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ACCOIN

Chief Clerk of the House

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HJ.R. No. 3

A JOINT RESOLUTION

proposing a constitutional amendment clearing land titles by 1

relinquishing and releasing any claim of sovereign ownership or

title to a fractional interest in the Shelby, Frazier, and

McCormick League (now located in Fort Bend and Austin counties)

arising out of the voiding of a certain interest under a Mexican

land grant. 6

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BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VII of the Texas Constitution is amended 8

by adding Section 2A to read as follows:

Sec. 2A. The State of Texas hereby relinquishes and releases 10 any claim of sovereign ownership or title to an undivided one-third 11 interest in and to the lands and minerals within the Shelby, 12 Frazier, and McCormick League (now located in Fort Bend and Austin 13 counties) arising out of the interest in that league originally 14 granted under the Mexican Colonization Law of 1823 to John 15 McCormick on or about July 24, 1824, and subsequently voided by the

governing body of Austin's Original Colony on or about December 15, 17

1830, and title to such interest in the lands and minerals is

confirmed to the owners of the remaining interests in such lands

and minerals. This section is self-executing. 20

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November

23 The ballot shall be printed to provide for voting for or

against the proposition: "The constitutional amendment providing

- for the clearing of land titles by the release of a state claim in
- 2 a fractional interest, arising out of the voiding of an interest
- 3 under a Mexican land grant, to the owners of certain property in
- 4 Fort Bend and Austin counties."

HOUSE 93 HAR -9 PM 2: 17 COMMITTEE REPORTSE OF REPRESENTATIVE.

1st Printing

By Saunders, et al.

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H.J.R. No. 3

A JOINT RESOLUTION

proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant.

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SECTION 1. Article VII of the Texas Constitution is amended

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Sec. 2A. The State of Texas hereby relinquishes and releases 1.0 any claim of sovereign ownership or title to an undivided one-third 11 interest in and to the lands and minerals within the Shelby, 12 13 Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally 14 15 granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the 16 governing body of Austin's Original Colony on or about December 15, 17 18 1830, and title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands 19 and minerals. This section is self-executing. 20

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing

H.J.R. No. 3

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- 2 a fractional interest, arising out of the voiding of an interest
- 3 under a Mexican land grant, to the owners of certain property in
- 4 Fort Bend and Austin counties."

COMMITTEE REPORT

3/8/93 The Honorable Pete Laney Speaker of the House of Representatives (date) Sir: We, your COMMITTEE ON STATE AFFAIRS to whom was referred ___ have had the same under consideration and beg to report (measure) back with the recommendation that it (X) do pass, without amendment.) do pass, with amendment(s).) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure. A fiscal note was requested. (X) yes () no An author's fiscal statement was requested. () yes (**) no A criminal justice policy impact statement was requested. () yes (x) no An equalized educational funding impact statement was requested. () yes (X) no An actuarial impact statement was requested. () yes (x) no A water development policy impact statement was requested. () yes (X) no () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars. House Sponsor of Senate Measure _ The measure was reported from Committee by the following vote: AYE NAY **PNV ABSENT** Seidlits, Ch. Х X Hunter, T., V.C. Black \mathbf{x} Danburg х Denton Eckels х Erickson Х Goodman Х X Jones, D. x Marchant x Saunders Tallas х x Turner, S. х Wilson x Wolens

| Total | 12 | aye |
|-------|----|---------------------|
| | 0 | nay |
| | 0 | present, not voting |
| | 3 | absent |

Extial

By: Saunders H.J.R. 3

BACKGROUND

The constitutional amendment proposed by HJR 3 is designed to clear the title of landowners in the Shelby-Frazier-McCormick League Grant lying in Austin and Fort Bend Counties.

An original grant of one full league of land (4,428 acres) to three single men in Austin's Original colony was made in 1824 in conformity with Austin's practices under the terms of the colonization laws of Mexico. Contrary to normal practices, the undivided interests of the grant were not divided or partitioned among the grantees. John McCormick's undivided 1/3 interest was subsequently voided upon his abandonment of the country (Mexico). The voided interest was "returned to the mass of land of the state (sovereign)" by the governing council of the colony. The action was upheld by the Texas Supreme Court in the case of Marsh v. Weir, 21 Texas 97 (1858). McCormick's interest was never thereafter granted out or separated from sovereign ownership by Mexico, the Republic of Texas nor the State of Texas. The interest remained in the public domain until the late nineteenth century when all remaining unappropriated public domain was conveyed and dedicated to the permanent school fund.

The Acts of 1850, 2nd Legislature, Regular Session, ch. CV (Gamel's Law of Texas, Vol. 3, pg. 556) prohibited any subsequent grant or patent from being issued and located in the original Austin's Colony.

Article VII, Section 4a, of the Texas constitution, allows the issuance of patents to correct defects in titles of landowners with a 50-year title chain and no notice of the defect. However, the amendment does not apply to the subject situation, due to the Supreme Court decision in Marsh v. Weir, supra, and the statutory prohibition on location of patents in Austin's colony.

The Land Commissioner and the School Land Board are prohibited by law from disposing of assets of the permanent school fund without receiving fair market value in exchange.

PURPOSE

The constitutional amendment proposed by HJR 3 is designed to irrevocably relinquish and release any and all claim of sovereign title or ownership in and to the surface and mineral estates of the undivided one-third (1/3) interest in the league (4,428 acres) known as the Shelby Frazier McCormick League Grant and to confirm title therein to the owners of the remaining interests in such surface and mineral estates. The relinquishment is limited to that certain undivided one-third (1/3) interest of John McCormick voided and nullified by the governing council of Austin's Original Colony on December 15, 1830, as validated by the Supreme Court in Marsh v. Weir, discussed above.

The amendment, if approved and adopted, is self executing, effective upon adoption, and requires no further action by any party. It will remove a major defect in title of many innocent landowners, including private individuals, businesses, churches, and governmental entities and allow sales, partitions, financings, and crop loans to be made and closed.

Page 2 H.J.R. 3

RULEMAKING AUTHORITY

It is the opinion of this Committee that this act does not grant any additional rulemaking authority to any state officer, agency, department or institution.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Article VII of the Texas Constitution by adding Section 2(a) as follows:

2(a) The state relinquishes and releases any claim of ownership or title to an undivided one-third interest in and to the lands and minerals within what is now Fort Bend and Austin counties. The land was originally granted under the Mexican Colonization Law of 1823 to John McCormick in 1824 and later voided by the governing body of Austin's Original Colony in 1830. This section is self-executing.

SECTION 2. Provides exact wording of the proposed amendment as it will appear on the November 2, 1993, ballot.

SUMMARY OF COMMITTEE ACTION

Pursuant to public notice posted on March 3, 1993, the Committee on State Affairs convened in a public hearing on March 8, 1993 to consider HJR 3. The Chair laid out HJR 3. Testimony in support of HJR 3 was received from Verna Spates, Dennis R. King, Dan Dompier, Annie O. Fabio, Rep. Senfronia Thompson, Glen T. Whitehead, Dr. Steve Jones, and Rep. Huey McCoulskey. Testimony on the bill was received from Stroud Kelly. The motion to report HJR 3 favorably to the House prevailed by a vote of 12 Ayes, 0 Nays, 0 PNV, and 3 Absent.

State Affairs Committee (03/08/93)

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LEGISLATIVE BUDGET BOARD Austin, Texas

FISCAL NOTE 73rd Regular Session

February 22, 1993

TO:

Honorable Curtis Seidlits, Chair Committee on State Affairs House of Representatives

IN RE: House Joint Resolution No. 3 By: Saunders

Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 3 (proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant) this office has determined the following:

The bill would clear the title of hundreds of current landowners in the Shelby, Frazier, and McCormick League grant which is located in Austin and Fort Bend Counties. The bill could prevent the state's involvement in potentially time-consuming and costly lawsuits to resolve the title issues surrounding these properties. The Office of the Attorney General has estimated that failure to pass the resolution could result in the need for 2.5 additional positions and involve hundreds of hours of attorney time should the landowners decide to contest the PSF's ownership. Since the state has neither received income from this property, nor anticipates receiving any, there would be no cost to the state from relinquishing its interest in these properties.

No fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution to the State is \$60,000.

Source: General Land Office and Veterans' Land Board, Attorney General's Office;

LBB Staff: JO, JWH, DF, KNW, LC

HOUSE 93 MAR 22 PM 12: 38 ENGROSSMENT THUBBLE OF REPRESENTATIVES

By Saunders, et al.

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H.J.R. No. 3

A JOINT RESOLUTION

proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VII of the Texas Constitution is amended by adding Section 2A to read as follows:

Sec. 2A. The State of Texas hereby relinquishes and releases 10 any claim of sovereign ownership or title to an undivided one-third 11 interest in and to the lands and minerals within the Shelby, 12 Frazier, and McCormick League (now located in Fort Bend and Austin 13 counties) arising out of the interest in that league originally 14 granted under the Mexican Colonization Law of 1823 to John 15 McCormick on or about July 24, 1824, and subsequently voided by the 16 17 governing body of Austin's Original Colony on or about December 15, 1830, and title to such interest in the lands and minerals is 18 confirmed to the owners of the remaining interests in such lands 19 and minerals. This section is self-executing. 20

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing

H.J.R. No. 3

- for the clearing of land titles by the release of a state claim in
- 2 a fractional interest, arising out of the voiding of an interest
- 3 under a Mexican land grant, to the owners of certain property in
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LEGISLATIVE BUDGET BOARD Austin, Texas

FISCAL NOTE 73rd Regular Session

February 22, 1993

TO:

Honorable Curtis Seidlits, Chair

Committee on State Affairs

House of Representatives

Austin, Texas

IN RE: House Joint Resolution No. 3 By: Saunders

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 3 (proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant) this office has determined the following:

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No fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution to the State is \$60,000.

Source: General Land Office and Veterans' Land Board, Attorney General's Office;

LBB Staff: JO, JWH, DF, KNW, LC

By: Saunders, et al. (Senate Sponsor - Armbrister) H.J.R. No. 3 (In the Senate - Received from the House March 23, 1993; March 24, 1993, read first time and referred to Committee on State Affairs; March 31, 1993, reported favorably by the following vote: Yeas 9, Nays 0; March 31, 1993, sent to printer.)

COMMITTEE VOTE

| | Yea | Nay | PNV | Absent |
|------------------|-----|-----|-----|--------|
| Harris of Dallas | х | | | |
| Rosson | х | | | |
| Carriker | х | | | |
| Henderson | | | | x |
| Leedom | х | | | |
| Lucio | х | | | |
| Luna | | | | x |
| Nelson | x | | | |
| Patterson | x | | | |
| Shelley | x | | | |
| Sibley | | | | х |
| West | х | | | |
| Whitmire | | • | | x |

HOUSE JOINT RESOLUTION

proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VII of the Texas Constitution is amended by adding Section 2A to read as follows:

Sec. 2A. The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830, and title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands and minerals. This section is self-executing.

SECTION 2. This proposed constitutional amendment shall be

submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the clearing of land titles by the release of a state claim in a fractional interest, arising out of the voiding of an interest under a Mexican land grant, to the owners of certain property in Fort Bend and Austin counties."

Austin, Texas March 31, 1993

Hon. Bob Bullock

President of the Senate

We, your Committee on State Affairs to which was referred H.J.R. No. 3, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Harris of Dallas, Chairman

FAVORABLE SENATE COMMITTEE REPORT ON

| SB | SCR | SJR | SR | НВ | HCR (| HIB | | 3 | |
|----|-----|-----|----|-------|---------------------|----------|-------------|-------|-------|
| | | Ву | | (Auth | muus or/Senate S | ponsor) | | Aembi | uster |
| | | _ | | | 3/3/193 | <u> </u> | | | |
| | | | | | (date) | | | | |

| We, your Committee on | STATE AFF | AIRS | , to which was referred the attached measure, |
|--|--------------------|----------------|--|
| have on(date of he back with the recommendation (s | aring) | nad the same | under consideration and I am instructed to report it |
| do pass and be printed | , | | |
| () do pass and be ordered not pr | inted | | |
| () and is recommended for place | ment on the Local | and Unconte | sted Bills Calendar. |
| A fiscal note was requested. | (Vyes | () no | |
| A revised fiscal note was requeste | d. () yes | (v) no | |
| An actuarial analysis was request | ted. () yes | (√no | |
| Considered by subcommittee. | () yes | (ı) no | |
| The measure was reported from C | Committee by the f | following vote | : |

| | YEA | NAY | ABSENT | PNV |
|---------------------------|----------|-----|--------|-----|
| Harris, O.H. "Ike", Chair | | | | |
| Rosson, Vice-Chair | V | | | |
| Carriker | ✓ | | | |
| Henderson | | | | |
| Leedom | | | | · |
| Lucio | ✓ · | | | |
| Luna | | | | |
| Nelson | | | | |
| Patterson | | | | |
| Shelley | ✓ × | | | |
| Sibley | | | / | |
| West | / | | | |
| Whitmire | | | / | |
| TOTAL VOTES | 9 | 7 | 4 | O |

COMMITTEE CLERK COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill Retain one copy of this form for Committee files $\frac{1}{2} \int_{\mathbb{R}^{n}} \frac{1}{2} \int_{\mathbb{R}^{n}} \frac{1}{2$

BILL ANALYSIS

Senate Research'Center

H.J.R. 3 By: Saunders, et al. State Affairs 6-25-93 Enrolled

BACKGROUND

In 1824, an original land grant of one full league of land (4,428 acres) was made to three unmarried men in Austin's Colony in conformity with Stephen F. Austin's practices under the terms of the colonization laws of Mexico. Contrary to normal practices, the undivided interests of the grant were not divided or partitioned among the grantees (Shelby, Frazier, and McCormick). John McCormick's undivided 1/3 interest was later voided upon his departure from the country while Texas remained part of Mexico. The voided interest was "returned to the mass of land of the state" by the governing council of the colony. The action was upheld by the Texas Supreme Court in the case of Marsh v. Weir, 21 Texas 97 (1858). McCormick's interest was never thereafter granted out or separated from sovereign ownership by Mexico, the Republic of Texas, or the State of Texas. The interest remained in the public domain until the late nineteenth century when all remaining unappropriated public domain was conveyed and dedicated to the permanent school fund.

The Acts of the 2nd Legislature, Regular Session, 1850, prohibited any subsequent grant or patent from being issued and located in the original Austin's Colony.

Section 4A, Article VII, Texas Constitution, allows the issuance of patents to correct defects in titles of landowners with a 50-year title chain who had no notice of the defect; however, this section does not apply in this situation due to the Supreme Court decision in 1858 and the statutory prohibition on location of patents in Austin's Colony.

The Commissioner of the General Land Office and the School Land Board are prohibited by law from disposing of assets in the permanent school fund without receiving fair market value in return.

PURPOSE

As enrolled, H.J.R. 3 requires the submission to the voters of a constitutional amendment to clearland titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article VII, Texas Constitution, by adding Section 2A, to provide that the State of Texas relinquishes and releases any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant. Provides that the title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands and minerals, and that this section is self-executing.

SECTION 2. Requires the submission of this constitutional amendment to the voters at an election to be held November 2, 1993, and provides the language for the ballot.

LEGISLATIVE BUDGET BOARD Austin, Texas

FISCAL NOTE 73rd Regular Session

March 25, 1993

TO:

Honorable O. H. (Ike) Harris, Chair

Committee on State Affairs

Senate Chamber Austin, Texas

IN RE: House Joint Resolution No. 3, as

engrossed

By: Saunders, et al.

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 3, as engrossed (proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant) this office has determined the following:

The bill would clear the title of hundreds of current landowners in the Shelby, Frazier, and McCormick League grant which is located in Austin and Fort Bend Counties. The bill could prevent the state's involvement in potentially time-consuming and costly lawsuits to resolve the title issues surrounding these properties. The Office of the Attorney General has estimated that failure to pass the resolution could result in the need for 2.5 additional positions and involve hundreds of hours of attorney time should the landowners decide to contest the PSF's ownership. Since the state has neither received income from this property, nor anticipates receiving any, there would be no cost to the state from relinquishing its interest in these properties.

No fiscal implication to the State or units of local government is anticipated.

The cost of publication of the resolution to the State is \$60,000.

Source: General Land Office and Veterans' Land Board, Attorney General's Office;

LBB Staff: JO, JWH, DF, KNW, OC

LEGISLATIVE BUDGET BOARD Austin, Texas

FISCAL NOTE 73rd Regular Session

February 22, 1993

TO: Honorable Curtis Seidlits, Chair

Committee on State Affairs
House of Representatives

Austin, Texas

IN RE: House Joint Resolution No. 3

By: Saunders

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 3 (proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant) this office has determined the following:

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The cost of publication of the resolution to the State is \$60,000.

Source: General Land Office and Veterans' Land Board, Attorney General's Office;

LBB Staff: JO, JWH, DF, KNW, LC



A JOINT RESOLUTION

- 1 proposing a constitutional amendment clearing land titles by
- 2 relinquishing and releasing any claim of sovereign ownership or
- 3 title to a fractional interest in the Shelby, Frazier, and
- 4 McCormick League (now located in Fort Bend and Austin counties)
- 5 arising out of the voiding of a certain interest under a Mexican
- 6 land grant.
- BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:
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- 9 by adding Section 2A to read as follows:
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- interest in and to the lands and minerals within the Shelby,
- 13 Frazier, and McCormick League (now located in Fort Bend and Austin
- counties) arising out of the interest in that league originally
- 15 granted under the Mexican Colonization Law of 1823 to John
- McCormick on or about July 24, 1824, and subsequently voided by the
- governing body of Austin's Original Colony on or about December 15,
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- submitted to the voters at an election to be held on November 2,
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H.J.R. No. 3

- for the clearing of land titles by the release of a state claim in
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- 4 Fort Bend and Austin counties."

| | | | • |
|-------------|------------------|-------------|----------------------------------|
| Presid | ent of the Senat | :e | Speaker of the House |
| I ce | rtify that H.J.F | R. No. 3 wa | s passed by the House on March |
| 22, 1993, | by the following | ng vote: Y | reas 140, Nays 0, 1 present, not |
| voting. | | | |
| , | | | • |
| | | | |
| | | | Chief Clerk of the House |
| I ce | tify that H.J.R | . No. 3 was | s passed by the Senate on April |
| 6, 1993, by | y the following | vote: Yea | s 30, Nāys 0. |
| | | | |
| | | - | |
| | | | Secretary of the Senate |
| | | | |
| RECEIVED: | | | |
| | Date | | |
| | | | |
| | | | |
| | Secretary of | State | |

| | |
|--|---|
| President of the Senate | Speaker of the House |
| I certify that H.J.R. No. | $\frac{3}{(1)}$ was passed by the House on |
| March 22, | 1993, by the following vote: |
| Yeas 140 , Nays 0 , | present, not voting |
| (3) | (4) |
| | |
| | Chief Clerk of the House |
| I certify that H.J.R. No. $\frac{971}{5}$, Yeas $\frac{30}{6}$, Nays $\frac{0}{6}$ | $3^{\prime\prime}$ was passed by the Senate on 1993, by the following vote: |
| Yeas <u>50</u> , Nays <u>0</u> | (7) |
| | |
| | Secretary of the Senate |
| | · · · · · · · · · · · · · · · · · · · |
| | |
| | |
| RECEIVED: | |
| Date | • |

**** Preparation: CT47;

Secretary of State

Senate Research Center

H.J.R. 3 By: Saunders, et al. State Affairs 3-29-93 Engrossed

BACKGROUND

In 1824, an original land grant of one full league of land (4,428 acres) was made to three unmarried men in Austin's Colony in conformity with Stephen F. Austin's practices under the terms of the colonization laws of Mexico. Contrary to normal practices, the undivided interests of the grant were not divided or partitioned among the grantees (Shelby, Frazier, and McCormick). John McCormick's undivided 1/3 interest was later voided upon his departure from the country while Texas remained part of Mexico. The voided interest was "returned to the mass of land of the state" by the governing council of the colony. The action was upheld by the Texas Supreme Court in the case of Marsh v. Weir, 21 Texas 97 (1858). McCormick's interest was never thereafter granted out or separated from sovereign ownership by Mexico, the Republic of Texas, or the State of Texas. The interest remained in the public domain until the late nineteenth century when all remaining unappropriated public domain was conveyed and dedicated to the permanent school fund.

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The Commissioner of the General Land Office and the School Land Board are prohibited by law from disposing of assets in the permanent school fund without receiving fair market value in return.

PURPOSE

As proposed, H.J.R. 3 requires the submission to the voters of a constitutional amendment to clear land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant.

RULEMAKING

It is the opinion of the committee that this bill does not grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article VII, Texas Constitution, by adding Section 2A, to provide that the State of Texas relinquishes and releases any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant. Provides that the title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands and minerals, and that this section is self-executing.

SECTION 2. Requires the submission of this constitutional amendment to the voters at an election to be held November 2, 1993, and provides the language for the ballot.

BILL ANALYSIS

Senate Research Center

H.J.R. 3 By: Saunders, et al. State Affairs 6-25-93 Enrolled

BACKGROUND

In 1824, an original land grant of one full league of land (4,428 acres) was made to three unmarried men in Austin's Colony in conformity with Stephen F. Austin's practices under the terms of the colonization laws of Mexico. Contrary to normal practices, the undivided interests of the grant were not divided or partitioned among the grantees (Shelby, Frazier, and McCormick). John McCormick's undivided 1/3 interest was later voided upon his departure from the country while Texas remained part of Mexico. The voided interest was "returned to the mass of land of the state" by the governing council of the colony. The action was upheld by the Texas Supreme Court in the case of Marsh v. Weir, 21 Texas 97 (1858). McCormick's interest was never thereafter granted out or separated from sovereign ownership by Mexico, the Republic of Texas, or the State of Texas. The interest remained in the public domain until the late nineteenth century when all remaining unappropriated public domain was conveyed and dedicated to the permanent school fund.

The Acts of the 2nd Legislature, Regular Session, 1850, prohibited any subsequent grant or patent from being issued and located in the original Austin's Colony.

Section 4A, Article VII, Texas Constitution, allows the issuance of patents to correct defects in titles of landowners with a 50-year title chain who had no notice of the defect; however, this section does not apply in this situation due to the Supreme Court decision in 1858 and the statutory prohibition on location of patents in Austin's Colony.

The Commissioner of the General Land Office and the School Land Board are prohibited by law from disposing of assets in the permanent school fund without receiving fair market value in return.

PURPOSE

As enrolled, H.J.R. 3 requires the submission to the voters of a constitutional amendment to clear land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant.

RULEMAKING

It is the opinion of the committee that this bill does not grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article VII, Texas Constitution, by adding Section 2A, to provide that the State of Texas relinquishes and releases any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League located in Fort Bend and Austin counties arising out of a voiding of the original Mexican land grant. Provides that the title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands and minerals, and that this section is self-executing.

SECTION 2. Requires the submission of this constitutional amendment to the voters at an election to be held November 2, 1993, and provides the language for the ballot.

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| ∘ rell Å titl | .nquisning and | HOUSE COINT RESOLUTION titutional amendment clearing land titles by d releasing any claim of sovereign ownership or ional interest in the Shelby, Frazier, and | MAR 2 2 1993 | 11. Ordered Engrossed at |
| • | NOV 1 6 1992 | . 1. Filed with the Chief Clerk. | MAR 2 2 1993 | 12. Engrossed. |
| | FEB 1 1993 | . 2. Read first time and referred to Committee on | MAR 2 2 1993 | 13. Returned to Chief Clerk at |
| | MAR N & 1002 | State affairs | MAR 23 1999 | 14. Sent to the Senate. |
| الم الم المراجع المراجع المراجع | | 3. Reported favorably (as substituted) and sent to Printer at 9:20am MAR 0 9 1993 4. Printed and distributed at 2:17-pm | MAR 23 1993 | |
| | 1 | 5. Sent to Committee on Calendars at 3:23 pm | MAR 2 4 1993 | STATE AFFAIRS 16. Read, referred to Committee on |
| | MAR 2 2 1993 | 6. Read second time (amended) and (finally) passed to Third Reading by a Record Vote of 140 yeas, | 3-31-93 | 17. Reported favorably 18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time. |
| | | 7. Motion to reconsider and table the vote by which H.J.R was ordered engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of present, not voting). | APR - 6 1993 | 19. Ordered not printed. 20. Regular order of business suspended by Manuman |
| | | 8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote of yeas, present, not voting. | | yeas nays |
| | | 9. Caption ordered amended to conform to body of resolution. | APR - 6 1000 | 21. To permit consideration, reading and passage, Senate and Constitutional Rule suspended by vote of |
| \$ | 1 | O. Motion to reconsider and table the vote by which H.J.R was finally adopted prevailed (failed) by a (Non-Record Vote) Record Vote of present, not voting). Output Description: | APR - 6 1993 | 22. Read second time passed to third reading by |

| | 23. Caption ordered amended to conform to body of bill. |
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| APR - 6 1993 | 24. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas, nays to place bill on third reading and final passage. |
| APR - 6 1993 | 25. Read third time and passed by (a viva voce vote.) (|
| OTHER ACTION: | OTHER ACTION: Secretary of the Senate |
| April 6, 1993 | 26. Returned to the House. |
| APR 6 1993 | 27. Received from the Senate (with amendments.) (as substituted:) |
| | 28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record Vote) (Record Vote of yeas, nays, present, not voting). |
| | 29. Conference Committee Ordered. |
| | 30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of yeas, nays, and present, not voting). |
| APR 6 1993 | 31. Ordered Enrolled at |

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